

**City of Selah
Council Minutes
of
June 10, 2003**

Regular Meeting
Selah Council Chambers
115 West Naches Avenue
Selah, WA 98942

A. Call to Order Mayor Bob Jones called the meeting to order at 4:00pm.

B. Roll Call

Members Present: Jerry Kobes, Keith Larson, Pete McNew, Allen Schmid, Herb Schmidt, Scott Smeback

Members Excused: Ron Deatherage

Staff Present: Frank Sweet, City Supervisor; Rick Gutierrez, Police Chief; Jerry Davis, Fire Chief; Jeff Hagler, Parks & Recreation Director; John Gawlik, Code Enforcement/Building Inspection Officer; Dale Novobielski, Clerk/Treasurer

C. Pledge of Allegiance

Councilman Larson led the Pledge of Allegiance. Pastor Lowell Welker led the group in prayer.

D. Agenda Changes

E. Public Appearances

1. Community Pride Award

Mayor Bob Jones asked Richard “Dick” Overby to come forward. He was introduced along with Father Darell of Our Lady of Lourdes Catholic Church. The Mayor thanked Dick for his 23 years of dedicated time and service to the Selah Food Bank and presented him with a framed certificate honoring his contribution to the community.

The Council, staff and guests rose in honor of Mr. Overby.

2. Life Saving Award

After calling Gerry (Mrs. Jerry) Henry and Michael Southard forward, Police Chief Rick Gutierrez read the Life Saving Award to recipient Michael Southard as follows:

On the afternoon of March 1, 2003, Michael Southard, a fourteen-year-old Selah student, found an elderly man on the side of the road. The man was unconscious and bleeding badly from a head wound. Michael

phoned 911 and returned to stem the bleeding with a towel; he kept the adults from moving the man until paramedics arrived.

The man he saved that day was Jerry Henry.

Jerry was taken to the hospital; he had a concussion and required eleven stitches to close the wound. The doctor prescribed limited activity for a time. He must be OK now, considering all the time he spent this spring working on the Selah Community Days float.

I believe that because of Michael Southard's quick thinking, brave and selfless act Jerry Henry is safe and sound today. I recommend Michael Southard for the life saving award that he so genuinely deserves.

Chief Gutierrez presented a framed certificate and the life saving medal to Michael Southard. The Council, staff and guests rose in honor of Michael.

F. Getting To Know Our Businesses

G. Communications

1. Oral

Attorney Jamie Carmody addressed the Council, representing Dean and Troy Laurvick, and Ridge Ridge Golf Course. He stated they expected to be on the Agenda today; however, negotiations with Elks Club have been difficult. He requested that River Ridge be set as an Agenda item for the next Council Meeting (June 24) for action on issuance of a Business License. He stated he would prefer to see the Council make its decision following a meeting of Mr. Carmody, the Laurvicks, Mayor Jones, Councilman Schmid and City Supervisor Frank Sweet to discuss (1) What do we do with the Elks Club and sewer line extension and (2) What assurances need to be on the construction of the clubhouse. He noted that Laurvicks proceeded with asphaltting the entire parking lot, wanting to send a positive message about their intention to build the clubhouse.

Mayor Jones said he felt “disgruntled,” because he thought both Mr. Carmody and the Laurvicks understood necessary steps required prior to putting in a parking lot. He stated he refuses to let the Council be further beaten up on this issue. He noted the Council wants to work with business and encourage business, but there were stipulations spelled out at the beginning, which still must be met.

Mr. Carmody stated he has not been a part of any disparagement of the Mayor or Council, but believes a prior Council made the decision not to extend sewer line and that decision was in reference to a previous developer.

The Mayor stated that giving free passes to play golf causes people to wonder why the Council is “reluctant” to be supportive of this business. He emphasized there will be no golf course without water and sewer.

Councilman Schmid stated he does not think any present Council Member is making judgments based on any previous developer or Council. He stated he is “bothered by” the proponents’ coming in at the last minute and making revisions. He noted the City has worked exceptionally hard on this issue for over two years.

Mr. Carmody complained that the Laurvicks went through seven months of “wetlands garbage” with the Department of Ecology. He stressed the importance of bringing the issue to closure.

Councilman Schmidt said the Council does want to move forward and is pro business. He noted consistency is important.

Councilman Kobes stated the Council could have Study Session and then have the item on the Agenda, but if there is no resolution on the sewer, not much may be accomplished.

City Supervisor Frank Sweet stated he would have some alternatives available for Council, and the issue will be brought back on 24th of June. He noted if it must go through prior condemnation to get water and sewer, then that's one consideration; if it can be worked out prior to that, that's another issue. After looking at alternatives, the Council will be able to decide if what they're asking is consistent with the scope of the original shoreline development permit, and if it is then evaluate it to determine if it makes sense.

Mayor Jones took issue with "the garbage" with Ecology, noting the Laurvicks knew what was required in building so close to the waterway.

Brian Harris, 506 North 4th Street, congratulated the Mayor and Council on the great job they do. Noting he was born and raised in Selah and is a member of the Elks Club, he stated he feels caught in middle of this issue. He urged Council Members to go to the course and look at what the Laurvicks have done there.

Mayor Jones expressed his concern regarding precedents stating the Laurvicks knew the clubhouse was required first and that water and sewer are required for that building to be built. He stated a building permit for River Ridge was issued in early January, but water and sewer requirements must be met.

2. Written
 - a. Selah Gymkids, LLC/Marudo - Land Use Agreement
 - b. Pictures & Info on Meadow Park Sports Centre - Whistler

Mayor Jones noted this area is the Jackson Hole of Canada. The Centre cost about \$10 million ten years ago. He stated it opens at 6:00am and closes at 2:00am.

H. Proclamations/Announcements

I. Consent Agenda

All items listed with an asterisk (*) were considered as part of the Consent Agenda.

- * 1. Approval of Minutes: May 27, 2003
- * 2. Approval of Claims & Payroll – Claims check nos. 41022 - 41113 for a total of \$277,468.45 and Payroll checks nos. 51223 - 51304 for a total of \$126,674.82.

Mayor Jones read the Consent Agenda.

Councilman Schmidt moved and Councilman Schmid seconded to adopt the Consent Agenda as printed. By voice vote, the motion carried unanimously.

J. Public Hearings

K. New Business

1. Appeal Jerry and Tara Wilkey – Peddlers License

Jerry Wilkey addressed the Council stating they had a license to sell ice cream in Selah last year with no complaints, and when they tried to renew this year, the check was accepted and then returned to them with a denial. He stated he sees other trucks such as Schwann and Sunrise Dairy in the City. He also cited Community Days food distribution.

Mayor Jones noted the denial was not because of terrorism; the reason the City has taken this approach is because it is too difficult to police. He stated vendors such as the Wilkeys may have the best intentions, but asked what the City can do about others who may not. He stated he has instructed the Police and Code Enforcement Officer to issue a warning to any street vendors they see. He stated businesses in the town pay sales tax to the City of Selah.

City Supervisor Frank Sweet explained that the reason he denied the application is because he questioned the value of this product and service to the community. He stated there are numerous businesses in town that sell ice cream. He stated his concern that if the City allows people to sell out in the community, the City assumes some liability because we don't know anything about the quality of the people or of the product. We don't know what kind of refrigeration, etc. He stated he chose to deny the permit in order to keep some type of control over the environment.

Mr. Wilkey stated he could see that concern with other products, but didn't see how he could sell ice cream if it was melted.

Mr. Sweet explained to Mr. Wilkey that he was explaining to the Council why he made the decision he did based on the ordinance, based on the activities, based on the belief that we're trying to keep people from being out in the middle of the street running after things, (eg. ice cream trucks) and trying to make it easier for our Police Department to control the environment. He further explained that on that basis he has denied the issuance of a peddlers permit and will continue to do so until the Council indicates otherwise. He noted a permit tends to imply approval of product and service that the City can't guarantee.

Councilman Herb Schmidt assured the Wilkeys that the permit denial is nothing personal; several businesses in the City have ice cream available for citizens and visitors. He explained that taxes do not go to City if the business is not located inside the City limits.

Mr. Wilkey stated if that is a problem, he will move into the City of Selah.

Mayor Jones stated Selah currently has a twelve-person Police Department that is taxed with crime control, traffic control, etc. Mobile food vendors would give them additional responsibility. He stressed that ice cream is only one example, next the City could have mobile Mexican food restaurants and food vendors of other types whether they are legitimate or not.

Mr. Wilkey stated he could understand that concern, giving the example of food vendors going to warehouses and packing plants, Schwann and Sunrise dairy. He stated his disagreement with the idea of an ice cream truck taking ice cream business away from Selah businesses.

Councilman Schmid asked about the Farmers Market and how they are licensed. Discussion ensued about Yakima Health District food licenses.

Mayor Jones stated as far as he is concerned it is a safety issue, a traffic control issue.

Councilman McNew asked if the Wilkeys were issued a permit last year. He asked if there were complaints against them when they had permit last year. He stated he had some issues with denying the family gainful employment when they did nothing wrong, had no complaints when they had the permit.

Discussion ensued about whether a business located and licensed in Selah could run a delivery truck or sales vehicle in the City, whether children run into the road, etc.

Mr. Wilkey noted he had seen a girls' softball group selling water for the Community Days Parade. He stated he tried to get into Community Days, and he couldn't.

Mayor Jones reiterated that if the City opens it up to one vendor then everybody can come to Selah and do what they want. He stated he personally has a problem with it.

Mr. Wilkey again asked if running the business out of a building located in the City would change the City's reaction.

Frank Sweet answered, "No, not if you're still taking a cart out on the street into the neighborhoods."

Councilman Schmidt stated he would be more willing to look at the possibility if the business were to be located in the City; however at present "we still have a problem."

Councilman Scott Smeback stated the protection of the community is important. He asked if there is a background check as part of the licensing process. He stated he personally doesn't see a problem with extending the Wilkey's permit.

Chief Gutierrez asked how many trucks are operated, how many employees and if the drivers are licensed. Mr. Wilkey responded that there are two and there is a \$2 million aggregate insurance coverage.

Councilman Kobes thanked the Wilkeys for bringing the issue before the Council. He stated the Peddlers Permit originated because of Community Days.

Councilman Larson stated he has fond memories of ice cream trucks coming through his neighborhood but is leery of blanket approval of mobile vendors in general, because of a loss of quality control. He asked what effect it might have on the community to have people throwing up a blue tarp and calling it a business. He assured the Wilkeys that he has nothing against them or their business.

There ensued discussion about the difference between a delivery service and door-to-door sales.

Councilman Pete McNew commended the Wilkeys for coming in, doing a good job last year and following the rules. He noted the City grandfathered in an espresso stand that did not meet City requirements. He stated his agreement with Mr. Smeback.

Councilman Schmidt moved to deny the request but consider further options. Councilman Kobes seconded.

Councilman Schmid asked for clarification.

Councilman Schmidt explained his motion is to deny the appeal, but leave it open for consideration at the next Council Meeting for any viable options that might be presented to the Council at that point, i.e. moving the business into the City.

The City Supervisor stated the issue before the Council is to approve or disapprove soliciting, selling products on the street. He stated he cannot see how it will be possible to consider other options if the appeal is denied.

The discussion digressed to espresso delivery.

Councilman Schmidt withdrew his motion. Councilman Kobes withdrew his second.

Councilman Schmidt moved to deny the appeal. Councilman Larson seconded.

Councilman Schmid stated we seem to be losing a little bit of Americana, afraid to let kids be kids anymore, to enjoy things like ice cream trucks.

Mayor Jones stated he called the Code Enforcement Officer one day because he passed a guy in an ice cream truck who looked like “all he needed was a parrot on his shoulder and a patch over his eye to be Long John Silver.” He said if you have one, you’ll have fifty.

Councilman Schmid stated that is why we license.

Councilman Larson withdrew his second and Councilman Schmidt withdrew his motion.

Councilman Schmid moved to table this issue for two weeks, giving time for staff to investigate how other cities handle peddlers licenses, background checks, etc. Councilman Schmidt seconded. Councilman Larson said he would also like to know how other cities regulate the facilities of mobile vendors. By voice vote, motion carried unanimously.

L. Old Business

M. Resolutions

Ordinance N – 1 was considered prior to consideration of Resolution M – 1 (See below)

1. Resolution Approving the Preliminary Plat of “Quail Court” as Recommended for Approval by the City of Selah Hearing Examiner with those Specific Conditions Contained Therein

Tabled. (See N – 1)

- * 2. Resolution Authorizing the Mayor To Sign the 2003 Agreement for Animal Control Services Between the City of Selah and the Humane Society of Central Washington

N. Ordinances

1. Ordinance Amending Ordinance No. 420, Zoning Map Amendment No. 2003-2 Rezone to Planned Development (Quail Ridge)

Councilman Schmid stated he brought up the question that Carl Torkelson answered in his memo, which was handed out at this meeting.

Carl Torkelson, 1416 Pleasantview Drive, addressed the Council, explaining that he wants to proceed and hopes to fine tune plans as he progresses.

Councilman Schmid asked what the plans are for Area A, the green area.

Mr. Torkelson stated he envisions it basically like Franklin Park. He stated he intends to cut back another ten feet in four foot increments.

Councilman Schmid stated in a Planned Development those things are supposed to be addressed. He stated the developer should show slopes and should also show access since it is to be a common area. He stated the need to show what you want.

Mr. Torkelson said as he moves toward the final stage, he will have more specifics. He stated he is uncertain what to show until he knows what the City will allow; what he projects with Area A is dependent upon whether the City approves the six-feet apart on his buildings. He voiced his frustration at having to guess what the Council will want.

Councilman Schmid again stressed the importance of a contractor's stipulation of what he wants in a Planned Development, and that the Council will then make changes if necessary.

City Supervisor Frank Sweet said he will sit down with Carl ASAP to work on the proposal.

Councilman Schmidt moved and Councilman Schmidt seconded to table Ordinance N-1 Amending Ordinance No. 420, Zoning Map Amendment No. 2003-2 Rezone to Planned Development (Quail Ridge) and Resolution M-1 Resolution Approving the Preliminary Plat of "Quail Court" as Recommended for Approval by the City of Selah Hearing Examiner with those Specific Conditions Contained Therein until the June 24, 2003 meeting. By voice vote, motion carried unanimously.

2. Ordinance Repealing Chapter 4.30 Relating to Admission Taxes and Establishing a New Chapter 4.30 Establishing a New Admission Tax

City Supervisor Frank Sweet reported this Ordinance was drafted by the previous City Attorney. He stated if the Council prefers to study this prior to taking any action, that would be fine with him.

Councilman Schmid asked about "athletic facilities" under 4.30.012 "Places;" he wanted additional definition.

Mr. Sweet stated he needs additional definition from the previous City Attorney.

Councilman Kobes asked about the reference to “public facilities district” noting he pulled the RCW, but he still can’t tell whether a Park & Rec Service Area would be included or excluded. He stated he needs clarification.

Councilman Schmidt said he had a concern about 4.30.010 (e) determination of parking charges according to the number of passengers.

Councilman Smeback moved and Councilman Kobes seconded to table N-2 Ordinance Repealing Chapter 4.30 Relating to Admission Taxes and Establishing a New Chapter 4.30 Establishing a New Admission Tax to the first Council Meeting in August, 2003. By voice vote, motion carried unanimously.

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor
2. Council Members
3. Boards
4. Departmental
 - a. Police Department Monthly Report – April 2003
 - b. Selah Municipal Court Report – May 2003

City Supervisor Frank Sweet reported Community Planner Dennis Davison will have open heart surgery tomorrow morning. He stated he has contacted Bill Horton of Horton Planning Services to give the City a hand during the time Dennis will be out. He further reported he has offered the City Attorney position to Robert Noe in Shoreline effective July 14, 2003.

Councilman Scott Smeback reported swim team will start up soon, and T-ball is in process. He stated it is good to see the community moving forward.

Councilman Jerry Kobes asked if there will be baseball in McGonagle Park this season. Councilman Keith Larson responded not until next year.

Councilman Pete McNew reported he got to go to his first SWC meeting where the County solid waste plan was passed. He stated Wendy and her associates will be glad to attend a meeting or provide information.

Police Chief Rick Gutierrez reported tomorrow is the last day of school, and all black and whites will be out.

Parks & Recreation Director Jeff Hagler reported that the last day of school is the first day pool is open to the public. He stated the pool has been open a week and a half for school groups, with several hundred kids going through.

Mayor Jones reported he met with Les Ornelas from the Clean Air Authority yesterday who asked that the Mayors withdraw their no confidence vote. Mr. Ornelas told the Mayor they now have a person answering complaints. He commented it is interesting to table entire agenda.

Chief Rick Gutierrez reviewed the ID's he has ordered for his department. Mayor Jones noted that Mayor Place recommend the bar coded ID's. Chief Gutierrez passed around samples of the old and new ID's. He noted Sergeant Hayes likely left because he thought the issue was going to be tabled. He recommended each department set up its own template, giving it the flexibility of adding or subtracting personnel. He stated you can put whatever information you decide you want. He noted that someone with computer savvy can download all of the information and a sample card. If everybody agrees to it, you get everybody's pictures on a digital camera, have the Mayor sign it and email it back East.

Councilman Schmidt moved the City act on ID's. Motion died for lack of second.

Council Members asked Police Chief Gutierrez questions. Mayor Jones suggested having a study session on this subject. He appointed a committee comprised of Councilman Allen Schmid, Councilman Herb Schmidt, Councilman Jerry Kobes, Police Chief Rick Gutierrez, Fire Chief Jerry Davis, Deputy Fire Chief Hanna and Sergeant Rick Hayes to look into the issue and report back to Council.

Q. Executive Session

(Executive Session on potential litigation was held at 3:00pm Study Session)

R. Adjournment

Council Member Kobes moved and Council Member Schmid seconded that the meeting be adjourned. With voice vote, the motion passed unanimously. The meeting adjourned at 5:40pm.

Robert L. Jones, Mayor

(Excused)

Ronald Deatherage, Council Member

Keith Larson, Council Member

Gerald Kobes, Council Member

Peter McNew, Council Member

Allen Schmid, Council Member

Herb Schmidt, Council Member

Scott Smeback, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer